

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

MICHAEL J. GARVEY,

Plaintiff,

v.

SETERUS, INC., SUBSTITUTE TRUSTEE
SERVICES, INC., HUTCHENS LAW FIRM,
LACEY M. MOORE, CHRISTOPHER T.
SALYER, SHIANN SCHMIDT, SHAPIRO &
INGLE, LLP, MICHAEL JAY EMREY, KYLE
STEWART,

Defendants.

CASE NO.: 5:16-cv-00209-RLV

MOTION TO DISMISS

NOW COMES Shapiro & Ingle, LLP, Michael Jay Emrey, and Kyle Stewart (collectively, “S&I Defendants”), by and through counsel and pursuant to FED. R. CIV. P. 12(b)(6), moving the Court to dismiss Plaintiff’s Complaint filed on November 17, 2016. The S&I Defendants show the Court as follows:

1. Plaintiff’s lawsuit fails to plead any plausible claim for relief. Plaintiff’s Complaint contains vague and conclusory allegations and includes no specific facts that could give rise to a cause of action.
2. Indeed, when one reviews the entirety of the communications between Plaintiff and the S&I Defendants and the entire record in Plaintiff’s Chapter 13 bankruptcy case, case number 16-50518, filed in the Western District of North Carolina, one must conclude there is no violation for which Plaintiffs can recover against the S&I Defendants.

WHEREFORE, in light of the foregoing and for reasons set forth in the accompanying memorandum, the S&I Defendants respectfully pray for an order dismissing this lawsuit with prejudice.

This the 20th day of January 2017.

/s/ Jason K. Purser

Jason K. Purser
N.C. State Bar No. 28031
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ATTORNEYS FOR THE S&I DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Motion to Dismiss upon:

Michael J. Garvey
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Pro Se Plaintiff

David R. DiMatteo, Esq.
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(Via Email Only)

Lacey M. Moore, Esq.
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Attorney for Substitute Trustee Services,
Hutchens Law, Lacey Moore, Christopher T.
Salyer, and Shiann Schmidt
(Via Email Only)

by depositing the same in a postpaid wrapper properly addressed to each party and depositing said wrapper in a post office or other official depository under the exclusive care and custody of the United States Postal Service or through email, as indicated above, through the CM/ECF system and as permitted by rule of court.

This the 20th day of January 2017.

/s/ Jason K. Purser

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